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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,795	09/28/2004	Dinah B. Quiachon	ENDOV-65897	6259
24201	7590	12/14/2005	EXAMINER	
FULWIDER PATTON 6060 CENTER DRIVE 10TH FLOOR LOS ANGELES, CA 90045			DAVIS, DANIEL J	
			ART UNIT	PAPER NUMBER
			3733	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/700,795

Applicant(s)

QUIACHON ET AL.

Examiner

D. Jacob Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 21-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/15/2004</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 23 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear whether or not the anchoring mechanism is claimed. Examiner assumes for purposes of examination that the structure is not claimed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 21 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,816,028 to Kapadia et al. Kapadia discloses a bifurcated graft comprising a main tubular body with legs having peaks and valleys. A radiopaque marker including the longitudinal threads illustrated in figure 2 is located within valleys.

Claims 21-30 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by U.S. Patent No. 5,628,783 to Quiachon et al.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quiachon et al. In figure 37, Quiachon discloses radiopaque markers 255, but fails to disclose that the markers are located in the valleys. One of ordinary skill in the art would know to locate the marker at any location on the device to indicate device location. It would have been obvious to one of ordinary skill in the art at the time the invention was made to place the radiopaque marker in a valley to indicate to a user the location of the device.

Claims 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kapadia et al. in view of U.S. Patent No. 5,489,295 to Piplani et al. Kapadia is silent regarding anchors. Piplani discloses anchors 126 and 127 attached to the main tubular member and a first leg respectively, to maintain the graft in proper position. Piplani fails to disclose a third anchor attached to the second leg. It would have been obvious to one of ordinary skill in the art at the time the invention was made to attach first and second anchors to the main tubular member and a

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first leg of the Kapadia device as taught by Piplani to maintain the graft in proper position.

Furthermore, it would have been obvious to one of ordinary skill in the art to include a third anchor attached to the second leg to maintain the second leg in proper position.

Claims 26-28 are rejected under 5 U.S.C. 103(a) as being unpatentable over Kapadia et al. in view of U.S. Patent No. 5,693,087 to Parodi. Kapadia is silent regarding anchors. Parodi discloses anchors 166 to "secure the thin-walled member 166, and connected tube 160 within aorta 152." It would have been obvious to one of ordinary skill in the art at the time the invention was made to include anchors at least on the ends of the Kapadia graft as taught by Parodi in order to secure the graft to the aorta.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Jacob Davis whose telephone number is (571) 272-4693. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo C. Robert can be reached on (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DJD



EDUARDO C. ROBERT
PRIMARY EXAMINER